



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 24, 1994

Ms. Maria Teresa Guerra
Assistant Attorney General
Tort Litigation Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR94-082

Dear Ms. Guerra:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former article 6252-17a, V.T.C.S.).¹ Your request was assigned ID# 22096.

The University of Texas System ("UT") has received a request for information regarding an alleged sexual assault that occurred on the Austin campus in October 1990. Specifically, the requestor seeks:

The full name [of Richard King], date of birth, his permanent address, his current or latest address and telephone number, his academic status, his major, hours completed and any other directory information available.

....

[T]he UT Police narrative as well as full UT Police report regarding the alleged sexual assault of Padilla.

In Open Records Letter No. 93-583 (1993), this office concluded that most of the above information was subject to disclosure with the exception of the detailed

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

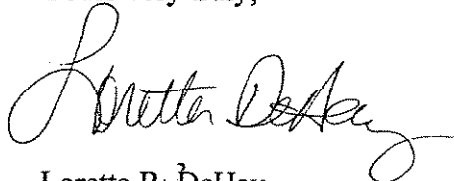
descriptions of the alleged rape, which were protected from disclosure by common-law privacy as incorporated into section 552.101 of the Government Code. You contended that much of the information was excepted from disclosure by sections 552.101, 552.103, 552.107 and 552.108 of the act. You also asked whether directory information concerning the individuals was subject to disclosure and whether section 552.117 excepts from disclosure Mr. King's address and telephone number. We reserved specific questions concerning Mr. King's home address and telephone number found on the police report and included as directory information, based on your representations that he elected to prohibit public access to such information as a governmental employee under sections 552.117 and 552.024. We understand, after speaking with a representative from your office, that Mr. King has not elected to prohibit disclosure of the information either as directory information or under section 552.024 of the Government Code. We conclude that you must release Mr. King's home address and telephone number both from the police report and as directory information.

As this office concluded in Open Records Letter No. 93-583 (1993), the requested police report is not considered an educational record subject to the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"). Therefore, you must release Mr. King's home address and telephone number contained in the requested police report.

You also ask whether you are required to release directory information regarding Mr. King. Directory information may be disclosed after compliance with FERPA notice requirements. See Open Records Decision Nos. 244 (1980); 96 (1975). An educational agency may disclose directory information only if the agency gives prior public notice to affected students of their right to object to disclosure. 34 C.F.R. § 99.37 (1992). We understand that Mr. King has not objected to disclosure of directory information; you must therefore release such information in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/rho

Ref.: ID# 22096

Enclosures: Open Records Letter No. 93-583

cc: Mr. Gardner Selby
The Houston Post
1005 Congress, Suite 420
Austin, Texas 78701
(w/o enclosures)